IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5131 of 2003
With
SPECIAL CIVIL APPLICATION No. 5132 of 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SATTELITE SOHAM CO.OP. HO.SOC.LTD.

Versus

AHMEDABAD ELECTRICITY CO. LTD.

Appearance:

1. Special Civil Application No. 5131 of 2003

MR MAHESH BHAVSAR for Petitioner No. 1

Mr. KB Pujara for Respondent No. 1

MR DN PATEL for Respondent No. 2

Mr. NG Nagarkar/Mr. RM Chhaya for Respondent No.3.

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT

and

MR.JUSTICE K.A.PUJ

Date of decision: 25/04/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

Rule. Service of Rule is waived by learned advocate Mr. KB Pujara for Ahmedabad Electricity Company; learned advocate Mr. RM Chhaya/Mr. MG Nagarkar for Ahmedabad Municipal Corporation; and learned advocate Mr. DN Patel for Ahmedabad Urban Development Authority.

2. In these two petitions, common questions of common interest are involved and therefore the learned counsel appearing for the respondents have already agreed and waived the service of Rule, and upon joint request and considering the peculiar facts and special circumstances obtainable in these matters, they are being disposed of by this common Judgment finally.

3. These two petitions pertain to "High Rise Buildings" in respect of which "No Objection Certificate" was not issued, situated in the City of Ahmedabad and also within the precincts of Ahmedabad Municipal Corporation (AMC) and Ahmedabad Urban Development Authority (AUDA).

4. After having heard the learned counsel appearing for the parties and considering the peculiar facts and special circumstances, we propose to dispose of finally this group of petitions with following directions;

(i) The petitioners who have not installed requisite Fire Safety Measures so far, which are otherwise required for their High Rise Buildings, shall install Fire Safety Systems as required under the law on or before 31st October 2003.

(ii) Upon completion of such installations, the petitioners shall apply to AMC for the purpose of obtaining "No Objection Certificate" and after having made such an application, it will be incumbent upon the AMC to decide either by way of granting or rejecting No Objection Certificate within a period of 30 days from the date of such application along with the payment of scrutiny fees.

(iii) On receipt of such "No Objection Certificate", the petitioners shall apply for grant of Building Use Permission either under GDCR or BPMC Act to the AMC or AUDA as the case may be, in a

prescribed form with requisite data and information within a period of 30 days with a copy to AEC, and, on making such application, AEC will be at liberty to supply electric connection to such petitioners, on usual terms and conditions, and the AEC shall not discontinue or disconnect electric supply of those petitioners to whom such supply was already granted till the decision is taken about Building Use Permission.

(iv) In the event of rejection of Building Use Permission, for whatever reason, it shall be incumbent upon the authority to send such a Report to AEC within one week from such rejection and intimation of the same shall be sent to the petitioners concerned;

(v) Upon receipt of the Report from AMC and/or AUDA, with regard to the rejection of the Building Use Permission to the petitioner or petitioners, the AEC shall, before disconnecting electric supply, serve a notice to such petitioners granting them 30 days' time from the date of receipt of notice, with a view to facilitate them with an opportunity for making alternative arrangement or to avail permissible legal redressal.

5. In all these matters, it is clarified, for the removal of doubt, if any, that the notices earlier issued by the authorities shall not be acted upon and implemented by which time the authorities are directed to decide the applications made and/or to be made by the petitioners, and it will be open for the authorities for further action after consideration of the applications of the petitioners and take permissible legal actions.

6. These two petitions shall stand finally disposed of with aforesaid directions. However, we clarify, with a view to remove doubt, that in case of any difficulty to any party, it will be open for such party to approach or move this Court. Upon request, direct service is granted.

7. Rule is made absolute to the above extent without any order as to costs.

[J.N. Bhatt, Actg. C.J.]

rmr. [K.A. Puj, J.]